

REMARKS/ARGUMENTS

Claims 1 to 26, 28, 29, 34 to 36, 43 and 48 have been canceled. Claims 27, 30 to 33, 37 to 42, 44 to 47 and 49 to 51 remain in this application.

Attorney for Applicants wishes to thank the Examiner for the withdrawal of the section 103(a) rejections in paragraphs 1 and 2 of the Office Action mailed January 25, 2006 ("the latest Office Action").

Claim 27 has been amended to include the limitations of claim 36 and to improve definiteness. Claim 36 has been canceled. Rather than a plane which contains the seam, as in canceled claim 36, claim 27 defines but a cylindrical body having an axis coincident with the axis of the roll which contains the seam. Support is found in the definition of "cylindrical body" found at page 320 of the Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., 1988:

"cylinder ... 1 a : the surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar curve **b** : the space bounded by a cylinder and two parallel planes cutting all its elements – see VOLUME table **2** : a cylindrical body: as"

(bold type in original), and page 5, lines 2 and 3, and page 6, lines 4 and 5, of the specification. If the gluing surfaces are perpendicular to the first major surface and run the length of the sheet, the gluing surfaces and seam are in a plane generally perpendicular to the axis of the roll. If the gluing surfaces are not perpendicular to the first major surface and run the length of the sheet, the gluing surfaces and seam are in a cylindrical body having an axis coincident with the axis of the roll. In this case, the generally perpendicular plane containing the seam must have some thickness, i.e. the seam is in a cylindrical body having an axis coincident with the axis of the roll.

Claim 27 has also been amended to require the surface covering to consist essentially of two patterned resilient sheet elements, an adhesive interposed between the gluing surfaces of the sheet elements and a seamless resilient wear layer. Support is found at page 2, lines 15 and 16, and page 3, lines 6 to 16.

Claim 40 has been amended to require the resilient sheet elements to be patterned. Support is found at page 3, lines 6 to 16.

The rejection under 35 U.S.C. 112, 2nd paragraph, of claims 27, 36 and 48 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, previously stated in the Office Action mailed February 8, 2005, has been maintained. The Examiner states that claim 48 contradicts claim 36. Claims 36 and 48 have been canceled. However, the limitations of claim 48 appear in claim 47, which depends on amended claim 27. The amendment to claim 27 makes the limitation of claim 47 consistent with the limitations of claim 27. Therefore, the section 112 rejection of claims 27, 36 and 48 should be withdrawn.

In paragraph 4 on pages 2 and 3 of the latest Office Action, claims 27, 31 to 33 and 40 have been rejected as being anticipated by Karzmer US Patent No. 4,666,539 (“Karzmer”). As stated previously, claim 27 has been amended to include the limitation of claim 36. Therefore, claim 27 does not anticipate Karzmer.

Claim 36 has been rejected as being obvious in view of Karzmer in view of Marquez U.S. Patent No. 6,387,013 (“Marquez”) in paragraph 5 on pages 3 and 4 of the latest Office Action. Marquez is relied upon for a teaching of rolling a flooring sheet to provide a compact storage structure.

The elements S of Karzmer are referred to as “strips” throughout the disclosure of Karzmer. Strips are not the same as sheets. A strip is “a long narrow piece of material” (see the enclosed page 1168 of Webster’s Ninth New Collegiate Dictionary), whereas a sheet is “a portion of something that is thin in comparison to its length and breadth” (ibid, enclosed page 1084).

Still further, amended claim 27 requires the surface covering to consist essentially of two sheets. Two of the Karzmer strips would not cover a surface.

Yet further, amended claim 27 requires the two sheets to be patterned resilient sheet elements. The strips of Karzmer are not patterned, i.e. do not have a decorative design. Therefore, claim 27 is neither anticipated by nor obvious in view of Karzmer for these reasons and must be allowed.

Claims 31 to 33 depend on claim 40 and should be allowed upon the allowance of claim 40. Claim 40 is directed to a resilient flooring sheet comprising two patterned resilient sheet elements and a seamless resilient wear layer that covers substantially the entire resilient flooring sheet, including substantially all of the two elements and the seam. The Karzmer flooring does not comprise sheet elements, patterned sheet elements or a seamless resilient wear layer.

Since claim 40 is directed to a resilient flooring sheet comprising two resilient sheet elements and a seamless resilient wear layer, the definitions of ASTM F141 (previously submitted) apply. Therefore a “resilient floor,” is a sheet of which the wearing surface is non-textile, and a “wear layer” is the portion of a resilient floor covering that contains or protects the pattern effect.” As discussed above with respect to claim 27, the elements S of Karzmer are strips and not sheets, and the strips of Karzmer

are not patterned, i.e. do not have a decorative design. Therefore, claim 40 and the claims dependant thereon are allowable over Karzmer.

At column 4, lines 45 and 46, Karzmer states that a “plurality of the strips S are now turned so that the pile 27 [shown in Figure 5] forms their upper surface.” Therefore, Karzmer does not teach or suggest a seamless resilient wear layer or a resilient floor covering. The exposed surface of the Karzmer flooring is not seamless. It is formed from the plurality of glued together strips. The pile 27 is not a wear layer. There are no patterned resilient sheet elements, which are contained in or protected by the pile. And the pile takes the Karzmer flooring out of the definition for resilient floor covering, which requires the wearing surface to be non-textile. Therefore, claim 40 and the claims dependant thereon are allowable over Karzmer for these reasons as well.

Claims 30, 36, 41, 44 and 46 have been rejected as being obvious over Karzmer in view of Marquez in paragraph 5 on pages 3 and 4 of the latest Office Action. Claim 36 has been canceled.

Claims 30 and 41 depend on claim 40. The Examiner relies on Karzmer for the same disclosure argued in the rejection of claim 40. Therefore, claims 30 and 41 are allowable for the reason discussed above with respect to claim 40.

Claim 44 is directed to a resilient flooring sheet comprising two resilient sheet elements, which is in the form of a roll. Therefore, as in claim 40, the resilient flooring sheet of claim 44 is non-textile. The elements S of Karzmer are strips and not sheets, and the pile 27 takes the Karzmer flooring out of the definition for resilient floor covering, which requires the wearing surface to be non-textile. Therefore, claim 44 and claim 46, dependant thereon, are allowable over Karzmer. Since Marquez is only relied upon for a

teaching of rolling a flooring sheet to provide a compact storage structure, claims 44 and 46 are allowable over Karzmer in view of Marquez.

Further, at the bottom of page 3 and top of page 4 of the latest Office Action, the Examiner states that

“Karzmer ... teaches in figure 2 that the rubber layer initially comes in a roll. Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant[’s] invention was made to provide Karzmer with the flooring sheet in the form of a roll wherein the seam is either perpendicular or parallel to the roll considering that there are only two ways to roll the surface covering”

The Examiner is in error. Figure 2 is not roll. It is a disk of thickness equal to the thickness of the tire casing with the tread rubber 17 and belt plies 16 removed. After the tread rubber 17 and belt plies 16 are removed, the tire is cut in half through a plane perpendicular the axis of the tire, forming two circular halves. Each circular half is flattened out on rotatable table 19. See column 3, line 58, to column 4, line 5. Note that 13 (shown in Figure 2) is the circumferential edge 13 of the tire casing body shown in Figure 1 and 15 is the outer layer of the tire casing with the tread rubber and belt plies removed shown in Figure 1.

The strip S is cut from the disk with the upper surface 15 comprising the outer layer 15 of the casing and the lower surface 14 comprising the inner surface 14 of the casing. The thickness of the strip is the thickness of the tire casing with the tread rubber and belt plies removed.

As shown in Figures 3 to 5, the flooring sheet is made by adhering the outer layers 15 and inner layers 14 together after abrading one side of the strip S to form a pile 27. As discussed at column 4, line 59, to column 5, line 8, and shown in Figure 6, the

strips are formed into a twelve or eighteen inch wide elongated section on conveyor 30 and cut into twelve or eighteen inch lengths shown in Figure 7.

There is no suggestion that the elongated section of flooring material is flexible enough to be rolled with the seams perpendicular to the axis of the roll. In fact, since the elongated section of flooring material is cut while on the conveyor, the implication is that it cannot be handled easily unless cut into squares.

Further, it is impossible to roll the elongated section of flooring material of Karzmer with the seams parallel to the axis of the roll. This would require rolling an indeterminate length of the Karzmer material in a roll having a circumference less than twelve or eighteen inches (the width of the Karzmer material). The axis of the roll would be parallel to the length of the Karzmer material and the width would form at least the circumference of the roll if not one or more layers of the roll. Therefore, claim 44 and the claims dependent thereon are allowable over Karzmer in view of Marquez.

Near the top of page 4 of the latest Office Action, the Examiner states that "Marquez teaches a rolled flooring for the purpose of providing a compact storage structure" citing column 4, lines 30 and 31. However, the invention of Marquez is directed to an exercise mat. The fact that an exercise mat "typically constructed of a foam rubber material" (column 1, lines 12 and 13) can be rolled to provide compact storage does not teach or suggest that the elongated sections of flooring material comprising multiple strips of tire rubber casing can be rolled. Therefore, claim 44 and the claims dependent thereon are allowable over Karzmer in view of Marquez for this reason as well.

Claims 37 to 39, 42, 45 and 49 to 51 have been rejected as being obvious over Karzmer in view of Webster's new world dictionary. The Examiner relies on the dictionary definition of "scarf" and on the disclosure in Karzmer of the surface covering.

Claim 37 requires the surface covering to be "in the form of a roll, with the seam running the width of the roll." Karzmer does not teach or suggest this feature. See the discussion above with regard to claim 44. Figure 2 of Karzmer does not teach a roll of a surface covering. There is no suggestion that the elongated section of flooring material of Karzmer is flexible enough to be rolled. In fact, since the elongated section of flooring material is cut while on the conveyor, the implication is that it cannot be handled easily unless cut into squares. Again, if the elongated section of Karzmer flooring material were rolled about the width of the material, as would be normal, the seams would not run the width of the roll. Therefore, claim 37 and claim 38, dependent thereon, are allowable over Karzmer in view of the dictionary.

Claim 38 requires the surface covering to comprise a seamless resilient wear layer. The exposed surface of the Karzmer flooring is not seamless. It is formed from the plurality of glued together strips. The pile 27 is not a resilient wear layer. Therefore, claim 38 is allowable over Karzmer in view of the dictionary.

Claims 39, 42, 45 and 49 to 51 depend on claims 40, 41, 44, 37, 40 and 44, respectively. Therefore, they are allowable for the reasons that their parent claims are allowable.

All of the rejections have been met and Attorney for Applicants submits that the claims are in a condition for allowance. Therefore, early consideration and allowance are respectfully requested.

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Respectfully submitted,

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